

Protection Order Committee
Judicial Conference of Indiana

Minutes

February 26, 2010

The Protection Order Committee met at the Indiana Judicial Center on Friday, February 26, 2010 from 12:00 noon – 3:35 p.m.

1. Members present. David J. Certo, Stephen D. Clase, Jose D. Salinas, Fran Satterwhite, Ronald T. Urdal and Christopher A. Newton, Chair.
2. Staff present. Jeffrey Bercovitz and Tom Jones provided the committee with staff assistance.
3. Guests. Robyn Rucker, Staff Attorney/CLEO Coordinator, with the Division of State Court Administration; Mary DePrez, Director and Counsel for Trial Court Technology and LeJuan Epperson; Associate Project Manager, Division of State Court Administration and Patrick Hess, Consultant, Entara Tech, JTAC, attended the meeting.
4. Minutes approved. The minutes for the meeting on January 29, 2010 were approved.
5. New member. Judge Newton welcomed to the committee the new President of the Clerk's Association, Fran Sutterwhite.
6. Protection Order Deskbook.
 - a. Committee members reviewed and revised chapters 5, 6, and 7 of the Protection Order Deskbook. They agreed to continue their review at the next meeting.
 - b. Judge Salinas agreed to revise Chapter 6, No Contact Orders, if HB 1234 passes, which creates a no contact order without a court hearing.
 - c. Judge Urdal agreed to draft a new No Contact Order form based on HB 1234.
 - d. Members of the committee discussed the difficulty in placing the names of "all employees" in the Protection Order Registry program. They agreed to discuss this with Pat Hess.
 - e. Committee members agreed to ask Judge Bonfiglio to draft a modification of a WVRO form since it was referred to in the Deskbook but not yet developed.
7. Tharp v. State. Committee members discussed Tharp v. State, concerning service of a protection order on the respondent for purposes of prosecution of invasion of privacy. It included a passage in the opinion which indicates one must check all courts of record to determine if a protection order is in effect against a person. It was agreed by consensus to draft a letter to the Chief Judge John G. Baker, Indiana Court of Appeals about the use of the Protection Order Registry.
8. Confidential form. Jeffrey Bercovitz explained it was recently brought to his attention Indiana Code § 5-2-9-7 requires all information on the Confidential Form, PO-0104 to be kept confidential, even portions clearly nonconfidential, e.g. court and case identifying information. After revisions from the committee, Magistrate Clase moved to approve the revised confidential form. Judge Certo seconded the motion. The motion was passed.

9. JTAC

a. LeJuan Epperson reported 42 counties have “advocate access” to the protection order registry. This lets advocates type petitions for protection orders, print them out and file them, and then have the clerk use the number on the petition to place the petition electronically into the registry for the court to use when deciding whether or not to issue an *ex parte* protection order or a protection order issued after a hearing.

b. Judge Certo requested a new line on the petition to indicate which person(s) are legally entitled to be on the property subject to a protection order proceeding. This will assist him in determining whether or not a hearing must be held on an *ex parte* order based on the relief requested.

c. Judge Urdal reported the protection order petition clearly gives the petitioner space to claim medical expense reimbursements. However, the statute does not permit this for stalking and sex offenses. Jeffrey Bercovitz agreed to revise the appropriate forms for the committee’s review at their next meeting.

10. Recent legislation. Jeffrey Bercovitz distributed HB 1234, which creates a No Contact Order as a condition of bail when there is no hearing. Judge Certo moved to have Magistrate Clase approach Sen. Lanane and point out to him that in order for a violation of this new no contact order to be a crime, it must be listed in the criminal Invasion of Privacy statute. Judge Urdal seconded the motion. The motion was passed.

11. Other. Magistrate Clase distributed materials in use in Madison County concerning confiscation of firearms in protection order cases.

12. Future meeting dates. Committee members agreed to schedule the following meetings:

Friday, March 26, 2010	12:00 Noon – 3:30 p.m.	Indiana Judicial Center
Friday, June 25, 2010	12:00 Noon – 3:30 p.m.	Indiana Judicial Center
Friday, August 27, 2010	12:00 Noon – 3:30 p.m.	Indiana Judicial Center
Friday, October 29, 2010	12:00 Noon – 3:30 p.m.	Indiana Judicial Center

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law